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7 Attorneys for Plaintiff ROAR, LLC

8 **UNITED STATES DISTRICT COURT**
9 **CENTRAL DISTRICT OF CALIFORNIA**

10
11 ROAR, LLC, a California limited
12 liability company,

13 Plaintiff,

14 vs.

15 ROAR GLOBAL LIMITED, a United
16 Kingdom entity of unknown form, dba
ROAR GLOBAL; and DOES 1 through
17 10, inclusive,

18 Defendants.

Case No. 2:15-cv-05865-ODW-AFM

**JOINT REPORT PURSUANT TO
FEDERAL RULE OF CIVIL
PROCEDURE 26(f)**

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1 Plaintiff Roar, LLC (“Plaintiff”) and Defendant Roar Global Limited
2 (“Defendant”) hereby submit the following Joint Report pursuant to Rule 26(f) of
3 the Federal Rules of Civil Procedure, Local Rule 26-1, and the Court’s standing
4 order:

5 **I. INFORMATION DISCUSSED PURSUANT RULE 26(f) OF THE**
6 **FEDERAL RULES OF CIVIL PROCEDURE**

7 **A. Initial Disclosures**

8 The parties have stipulated to exchange initial disclosures pursuant to Fed. R.
9 Civ. P. 26(a)(1) on or before December 4, 2015.

10 **B. Discovery**

11 **1. Subjects of Discovery**

12 The parties anticipate that they will need to take discovery with regard to the
13 following topics, among others:

14 Plaintiff’s subjects of discovery

- 15 (a) Defendant’s selection and adoption of the ROAR
16 trademark;
- 17 (b) Defendant’s trademark clearance efforts, if any, prior to
18 selection and adoption of the ROAR trademark;
- 19 (c) Defendant’s use of the ROAR trademark, particularly with
20 regard to its use of the mark in the United States;
- 21 (d) Defendant’s connections with the United States, including
22 without limitation those relating to its use of the ROAR trademark;
- 23 (e) The identity of those involved in clearing, selecting, and
24 adopting the ROAR trademark;
- 25 (f) Confusion occurring as the result of Defendant’s use of the
26 ROAR trademark;
- 27 (g) Profits earned by Defendant as the result of its use of the
28 ROAR trademark.

Defendant's Subjects of Discovery

- 1
- 2 (a) who, as between Plaintiff and Defendant, has priority of
- 3 use;
- 4 (b) who, as between Plaintiff and Defendant, has priority of
- 5 use in the United Kingdom and in the European Community;
- 6 (c) who, as between Plaintiff and Defendant, has priority of
- 7 use in the United States;
- 8 (d) Plaintiff's selection and adoption of its mark;
- 9 (e) Plaintiff's trademark clearance efforts, if any, prior to
- 10 selection and adoption of its mark;
- 11 (f) Plaintiff's use of its mark as compared to Defendant's use;
- 12 (g) the identity of those involved in clearing, selecting, and
- 13 adopting Plaintiff's mark;
- 14 (h) the protectability of Plaintiff's mark;
- 15 (i) the likelihood of confusion, if any, as the result of the
- 16 respective uses of the marks at issue; and
- 17 (j) issues pertaining to damages and willfulness.

2. Completion of discovery.

18 The parties propose to complete discovery pursuant to the proposed schedule
19 attached as Exhibit A hereto.

C. Electronically stored information.

22 The parties do not anticipate any disputes relating to the disclosure or
23 discovery of electronically stored information.

D. Privileged matters.

25 The parties will negotiate a Protective Order to protect the disclosure of
26 confidential information. This Order will include a procedure by which the parties
27 can assert claims of privilege or confidentiality after production.

28

E. Orders pursuant to Rules 16(b), 16(c), or 26(c)

The parties will seek the entry of a Protective Order that will govern the disclosure of confidential information produced during the course of discovery. The parties will attempt to reach agreement on the language of such a stipulation and will submit it to the Court for approval. At this time, the parties are unaware of any Orders, other than a Scheduling Order, that should issue pursuant to Rules 16(b) or (c) of the Federal Rules of Civil Procedure.

II. INFORMATION DISCUSSED PURSUANT TO LOCAL RULE 26-1

A. Complex Cases

The parties agree that this case is not sufficiently complex to require use of the Manual for Complex Litigation.

B. Motion Schedule

Plaintiff anticipates filing a motions for summary adjudication on the issue of Defendant's liability for trademark infringement. Defendant anticipates filing motions to bifurcate and motions in limine at the appropriate time. The parties propose that dispositive motions be filed in accordance with the schedule attached as Exhibit A hereto.

C. Settlement

Counsel for the parties have had settlement discussions both before and since the filing of this action. The parties desire to participate in a non-judicial mediation – Settlement Procedure No. 3 pursuant to Local Rule 16-15.4.

D. Expert Witnesses

The parties propose that experts be disclosed in accordance with the schedule attached as Exhibit A hereto.

III. ADDITIONAL INFORMATION PURSUANT TO COURT'S SCHEDULING CONFERENCE ORDER

A. Listing and Proposed Schedule Of Discovery And Depositions

Plaintiff anticipates propounding requests for production of documents,

1 interrogatories, and requests for admission no later than November 30, 2015.

2 Plaintiff anticipates conducting 5-7 depositions, to begin in or about March 2016.

3 Defendant anticipates propounding requests for production of documents,
 4 interrogatories, and requests for admission no later than January 15, 2016. Plaintiff
 5 anticipates conducting 2-4 depositions, to begin in or about March 2016.

6 Because Defendant and its officers and employees are located in London,
 7 England, Plaintiff anticipates that the coordination and conduct of depositions will
 8 take additional time than would otherwise be required. The parties have proposed a
 9 schedule for completion of discovery, attached hereto as Exhibit A, which
 10 contemplates this fact while also being mindful of the Court's stated intention to
 11 impose tight deadlines to complete discovery.

12 **B. Listing And Proposed Schedule Of Law And Motion Matters**

13 Plaintiff anticipates filing no motions relating to the pleadings. Plaintiff
 14 anticipates filing a motion for summary adjudication of Defendant's liability for
 15 trademark infringement.

16 Defendant anticipates filing motions to bifurcate and motions in limine at the
 17 appropriate time.

18 Exhibit A hereto contains proposed dates for completion of law and motion
 19 matters (if any) and for hearing on motions for summary judgment and/or summary
 20 adjudication.

21 **C. Settlement Efforts**

22 Counsel for the parties have discussed settlement and are continuing to do so.
 23 The parties are amenable to a non-judicial, private mediation—Settlement Procedure
 24 No. 3 pursuant to Local Rule 16-15.4.

25 **D. Estimated Length Of Trial And Trial Dates**

26 The parties anticipate a jury trial of 5-7 days. The parties have proposed dates
 27 for the Final Pretrial Conference and Trial in Exhibit A hereto.

E. Parties To Be Added

Plaintiff is unaware of any parties to be added at this time. However, Plaintiff may choose to amend the Complaint to name individuals who are responsible for the trademark infringement alleged in the Complaint upon discovery of their identity. Plaintiff may also name other entities currently unknown to Plaintiff who have infringed Plaintiff's trademark.

F. Nature Of Trial

The parties have demanded a trial by jury.

G. Other Issues Affecting The Status Or Management Of The Case

The parties are unaware of other issues affecting the status or management of the case.

H. Proposals Regarding Severance, Bifurcation, Or Other Ordering Of Proof

At this time, Plaintiff does not believe that severance or bifurcation is necessary.

Defendant anticipates filing motions to bifurcate and motions in limine at the appropriate time. In particular, Defendant contends that Plaintiff's right to recover profits and other economic damages are tied to the issue of willfulness and, accordingly, Defendant will seek to file a motion to bifurcate as to the issue of willfulness.

I. Plaintiff's Short Synopsis Of The Case

Plaintiff is a successful talent management company with offices throughout the United States. Plaintiff's principals manage high-profile talent in the music, film, and television industries.

Since no later than 2000, and continuously to this day, Plaintiff has used the trademark ROAR in connection with its talent management services. In addition to owning common law trademark rights in ROAR, Plaintiff is further the owner of United States Trademark Registration No. 3,015,285 for the use of ROAR in

1 International Class 35 (including for the management of performing artists) and
 2 International Class 41 (including for the production and organization of live
 3 entertainment events).

4 Defendant is likewise a talent management company. Defendant has adopted
 5 the trademark ROAR GLOBAL for use in connection with its management services.
 6 Although based in the UK, Defendant conducts business in the United States,
 7 including in this Judicial District.

8 Defendant's mark ROAR GLOBAL is effectively identical to Plaintiff's
 9 mark. The addition of the word "Global" does nothing to disassociate the two
 10 companies. Not only is consumer confusion manifestly likely given the parties' use
 11 of the same mark in the exact same industry, but actual confusion is occurring. For
 12 example, talent agents with whom Plaintiff conducts business have erroneously
 13 believed that Defendant's managers and clients were associated with Plaintiff.

14 Plaintiff seeks injunctive relief and all monetary damages available under the
 15 Lanham Act.

16 **J. Defendant's Short Synopsis Of The Case**

17 Defendant contends it is the senior user and it has priority of use and therefore
 18 priority of right. Defendant contends that Plaintiff does not have a protectable
 19 property right in the mark at issue and, even if it does, that there is no likelihood of
 20 confusion, especially given that Defendant's business takes place, almost
 21 exclusively, in the United Kingdom and Europe.

22 **K. Amendment Of Pleadings**

23 Although Plaintiff has no current intention to amend the pleadings, discovery
 24 may reveal the identity of additional entities currently unknown to Plaintiff that are
 25 affiliated with Defendant and are using and infringing the ROAR trademark.
 26 Discovery may also reveal the identity of individuals associated with Defendant
 27 whose participation in the selection and use of the ROAR trademark warrants such
 28 individuals being named personally. Accordingly, Plaintiff reserves the right to

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1 amend the pleadings to name additional parties based on the results of written
2 discovery and depositions.

3 Defendant likewise reserves its right to amend its pleadings to the extent
4 necessary based on facts and legal theories which may arise during discovery.
5

6 DATED: November 23, 2015

KINSELLA WEITZMAN ISER
KUMP & ALDISERT LLP

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9
10 By: /s/ Gregory Korn

11 Gregory P. Korn
12 Attorneys for ROAR, LLC

13 DATED: November 23, 2015

DAVIS WRIGHT TREMAINE LLP

14
15
16 By: /s/ Bruce Isaacs

17 Bruce Isaacs
18 Attorneys for ROAR GLOBAL LIMITED
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EXHIBIT A

The parties propose the following dates for trial, the completion of discovery, expert disclosures, the completion of expert discovery, and the hearing on dispositive motions:

Event	Date
Deadline to amend pleadings	March 25, 2016
Fact discovery cut-off	July 15, 2016
Disclosure of experts	July 22, 2016
Disclosure of rebuttal experts	August 19, 2016
Expert discovery cut-off	September 15, 2016
Deadline for hearing of case dispositive motions	October 3, 2016
Final Pre-trial Conference	November 7, 2016
Trial	November 22, 2016